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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

IN RE: TOLL ROADS LITIGATION

Case No: 8:16-cv-00262 AG (JCGx)

PENNY DAVIDI BORSUK; DAVID
COULTER; EBRAHIM E. MAHDA;
TODD QUARLES; TODD CARPENTER;
LORI MYERS; DAN GOLKA; and
JAMES WATKINS on Behalf of
Themselves and All Others Similarly
Situated,

Plaintiffs,

vs.

FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR
AGENCY; SAN JOAQUIN HILLS
TRANSPORTATION CORRIDOR
AGENCY; ORANGE COUNTY
TRANSPORTATION AUTHORITY;
3M COMPANY; BRIC-TPS LLC;
RHONDA REARDON; MICHAEL

**PLAINTIFFS' *CORRECTED*
REQUEST TO CONTINUE
HEARING ON MOTION TO
DECIDE KEY QUESTIONS
BASED ON SETTLEMENT
WITH TCA DEFENDANTS, 3M
COMPANY, AND BRIC-TPS,
LLC**

Date: October 28, 2019
Time: 10:00 a.m.
Judge: Hon. Andrew J. Guilford
Courtroom: 10D

Compl. Filed: October 2, 2015

1 KRAMAN; CRAIG YOUNG; SCOTT
2 SCHOEFFEL; ROSS CHUN; DARRELL
3 JOHNSON; LORI DONCHAK;
4 COFIROUTE USA, LLC; and DOES 3-10,
5 inclusive,
6 Defendants.
7

8 Plaintiffs and the TCA Defendants have made progress on settlement, but
9 Plaintiffs seek an additional sixty days to complete the settlement process. The
10 Parties require additional time to work through issues in the long form settlement
11 agreement and notice plan and prepare them for presentment to the Court for
12 preliminary approval. Plaintiffs thus request a further continuance of the October
13 28th hearing on Defendants’ “Motion To Decide Key Questions,” to advance
14 the orderly effectuation of the settlement with Foothill/Eastern Transportation
15 Corridor Agency, San Joaquin Hills Transportation Corridor Agency, Michael
16 Kraman, Craig Young, Scott Schoeffel, Ross Chun, and Rhonda Reardon
17 (collectively the “TCA Defendants”), BRiC-TPS, LLC (“BRiC”), and 3M Company
18 (“3M”). The TCA Defendants do not take a position on the request for a
19 continuance.

20 The requested continuance would allow for execution of the long form
21 settlement agreement before the Court rules on the merits of claims that apply to the
22 settling Defendants. In contrast, proceeding with the hearing - and issuing a tentative
23 ruling on the merits - risks altering the landscape in a way that could disrupt the
24 settlement resolution process.

25 The OCTA Defendants and Cofiroute would not be prejudiced by a
26 continuance. To the contrary, continuing the hearing an additional 60 days does not
27 impact any parties’ rights, and thereby would avoid any disruption to the orderly
28

1 settlement process affecting a substantial portion of the litigation, and is reasonable
 2 in the context of a case pending for over four years.

3 Notably, the “Motion to Decide Key Questions” (“Motion”) was originally
 4 filed on behalf of all five Defendants, three of whom are in the process of finalizing
 5 settlements with Plaintiffs. The original Motion is intertwined with specific issues
 6 pertaining to three of the settling parties who are no longer active defendants in this
 7 action. To that end, it would be more efficient, as an alternative to continuing the
 8 hearing, for this Court to require the OCTA Defendants and Cofiroute to file a
 9 renewed Motion for Summary Judgment which would expeditiously bring this case
 10 to trial on all disputed issues of fact related only to the OCTA and Cofiroute.

11 Respectfully submitted,

12
 13 Date: October 21, 2019

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CO-LEAD CLASS COUNSEL

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SIGNATURE CERTIFICATION

Pursuant to U.S. District Court for the Central District of California Local Rule 5-4.3.4(a)(2)(i), I hereby attest and certify that the content of this document is acceptable all counsel listed above, and that I have obtained said counsels' authorization to affix their electronic signature to this document.

/s/ Helen I. Zeldes
HELEN I. ZELDES

1 **PROOF OF SERVICE**

2 I, the undersigned, declare: I am employed in the County of Los Angeles,
3 State of California. I am over the age of 18 and not a party to the within action; my
4 business address is 433 N. Camden Drive, 4th Floor, Beverly Hills, CA 90210.

5 On October 21, 2019, I served the foregoing document as follows:

6 **PLAINTIFFS' *CORRECTED* REQUEST TO CONTINUE HEARING ON**
7 **MOTION TO DECIDE KEY QUESTIONS BASED ON SETTLEMENT**
8 **WITH TCA DEFENDANTS, 3M COMPANY, AND BRIC-TPS, LLC**

9 [X] by electronically filing the foregoing with the Clerk of the Court using the
10 CM/ECF system which will send notification of such electronic filing to counsel of
11 record for all parties by operation of the Court's CM/ECF System.

12 [] by U.S. Mail in the ordinary course of business to the non-CM/ECF
13 participants indicated on the attached Manual Notice List. I am readily familiar with
14 the Firm's practice for the collection and processing of correspondence for mailing
15 with the Postal Service and that the correspondence would be deposited with same
that same day in the ordinary course of business.

16 I declare under penalty of perjury under the laws of the United States of
17 America and the State of California that the above is true and correct. Executed on
October 21, 2019, at Encinitas, California.

18 /s/ Helen I. Zeldes
19 HELEN I. ZELDES
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